

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

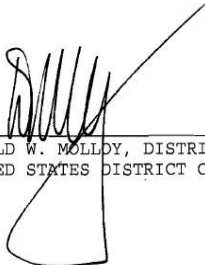
DANIEL E. CAPEHEART,)	CV 08-63-M-DWM-JCL
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MICHAEL J. ASTRUE, Commissioner of)	
Social Security,)	
)	
)	
Defendant.)	
_____)	

Plaintiff Daniel Capeheart brought this action under 42 U.S.C. § 405(g) seeking judicial review of the Commissioner of Social Security's decision denying his application for disability insurance and supplemental security income benefits under the Social Security Act, 42 U.S.C. §§ 401-433. Magistrate Judge Jeremiah Lynch issued Findings and Recommendation on March 6, 2009. After thoroughly

analyzing Capeheart's arguments, Judge Lynch recommended the Commissioner's decision be affirmed.

Capeheart did not object to the Findings and Recommendation and so has waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). This Court reviews the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000). I can find no clear error with Judge Lynch's Findings and Recommendation (dkt # 4) and therefore adopt it in full.

Dated this 27th day of March, 2009.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT